

European Union

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The decision to lift sanctions were based on the enactment by Taiwan of amendments to its Wildlife Conservation Law. In a statement President Clinton said, "Taiwan has taken to hear the world's concern about the fate of the wild tiger and rhinoceros and done the right thing in protecting these precious species ... Our willingness to take strong action to back that concern was instrumental in bringing about this change."

The changes have enhanced enforcement activities and enabled law enforcement authorities to impose penalties that are tough enough to deter people from dealing in rhino and tiger parts. The law also calls for the establishment of a new Nature Conservation Police designed to prevent and prosecute wildlife crime.

To ensure enforcement and compliance with Taiwan's obligations under CITES, the U.S. and Taiwan will monitor the success of these measures in halting trade in rhino and tiger parts and make a report within a year. Additionally, under a cooperation agreement, the U.S. Fish and Wildlife Service will help Taiwan improve conservation and law enforcement efforts.⁴

The enactment of an enforcement law, establishment of a new agency, and the enforcement cooperation agreement all illustrate enforcement mechanisms that increasingly are becoming common in enforcement of international environmental laws.

VIII. MUTUAL ASSISTANCE AND INTERNATIONAL ORGANIZATIONS

A. European Union: Europol-Convention

by André Klip^{*1}

The Draft Europol-Convention¹ has been the subject of long discussions within the European Union. At their meeting on June 20-21, 1995, the Council of Justice and Home Affairs Ministers agreed on the text of the draft convention, except for the provision on the role of the European Court of Justice.² This matter was to be resolved at the Cannes Summit of the European Union Heads of State and Government on June 26-27, 1995. On that occasion, Belgium, the Netherlands and Luxembourg took the view that a Convention without a role for the European Court of Justice was unacceptable and they would not ask their parliaments to ratify such a convention. The United Kingdom strongly opposed to any role of the European Court in the Convention and refused any compromise on this issue. It was decided to postpone the decision on this point. The outcome of the Cannes Summit caused quite a lot of confusion.

The relevant part of the French Presidency Conclusions read: "The European Council noted with satisfaction agreement on the Convention establishing Europol, a significant instrument for cooperation between States in the interests of reinforcing the security of their citizens. It recommends member States to do their utmost to ensure that

⁴ For additional background on CITES and its enforcement, see INTERNATIONAL WILDLIFE TRADE: A CITES SOURCEBOOK (Ginette Hemley, ed.) (1994); M.A. Peters, *The Convention on International Trade in Endangered Species: An Answer to the Call of the Wild*, 10 CONN. J. INT'L L. 169-91 (1994).

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¹ See for a description of the draft André Klip, *European Union: Draft Convention on the Establishment of a European Police Force (Europol)*, 11 INT'L ENFORCEMENT L. REP. 64 (Feb. 1995).

² See Tony Bunyan, *Justice and Home Affairs Council*, STATEWATCH, May-June 1995, p. 16-17.



this Convention can be formally adopted and applied as soon as possible after ratification by the national parliaments. It agreed to settle the question of the possible jurisdiction to be attributed to the Court of Justice of the European Communities at its meeting in June 1996."

Even after this Summit the legal status of the draft (or convention) remains unclear. All states seem to have agreed on the text of the latest draft, excluding one provision. Fourteen of them do also agree on the provision on the role of the European Court of Justice. The United Kingdom stands alone in this respect. What is clear from the text of the Presidency Conclusion is that the issue should be resolved in a year. On the other hand the remarks on ratification by national parliaments raise important questions. How could a government introduce a document for ratification in parliament, when the text is not complete or even worse when certain provisions cause disagreement between the future treaty partners? In most constitutional systems a treaty can only be submitted by the government to parliament for ratification after the text has been adopted and signed. This enables parliament to give its consent and approval to the treaty or to deny this. If the text is not complete this is not possible and parliament is not in a position to perform its democratic duty. Apart from that, there might be parliaments that will rest their approval of the Europol-Convention on the way the role of the European Court of Justice is provided. Those parliaments will almost certainly postpone their decision until this has become clear. Another important point on ratification is that a parliament should be able to see in relation to which countries the treaty will bind their nation.

Therefore expectations are that a Europol Convention will not enter into force before 1997.

B. European Parliament - Hearing on Europol

by André Klip

A hearing on Europol was organized by The Greens in the European Parliament on July 3, 1995 in Brussels. The hearing was presided by Claudia Roth, President of the Green Group, in the European Parliament.

In her opening statement Mrs. Roth stressed the fact that much of the discussion on the Europol Convention took place in secret, without thorough involvement of any elected parliament. For the Europol Drugs Unit, Director Jürgen Storbeck emphasized the need for the establishment of Europol in combatting international (organized) crime. Mr. Storbeck mentioned that internal guidelines are under preparation in order to make Europol operative as soon as the Convention comes into force.

Thilo Weichert of the German Union of Privacy Protection (*Deutsche Vereinigung für Datenschutz*, Hannover) compared Europol with an absolute monarch. He stated that the organization is not subject to any independent control mechanism. It might "launder" data by analyzing data supplied by national units into new Europol data. Professor Bert Swart for the Netherlands Standing Committee of Experts on International Immigration, Refugee and Criminal Law, criticized the United Kingdom's position on the role of the European Court of Justice. The British fear a federalization of Europe lacks substantial grounds. He compared the situation with the European Convention on Human Rights which provides a role for a Court, without any federal or communitizing impact.

The speeches referred to here as well as of other speakers and the interventions will be published in the Session Documents of the European Parliament.